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RUEHRH/AMEMBASSY RIYADH IMMEDIATE 3284-3291
RUEHRO/AMEMBASSY ROME IMMEDIATE 2174-2181
RUEHSG/AMEMBASSY SANTIAGO IMMEDIATE 0026-0033
RUEHVJ/AMEMBASSY SARAJEVO IMMEDIATE 2183-2190
RUEHUL/AMEMBASSY SEOUL IMMEDIATE 1834-1841
RUEHTC/AMEMBASSY THE HAGUE IMMEDIATE 6253-6260
RUEHKO/AMEMBASSY TOKYO IMMEDIATE 0423-0430
RUEHYD/AMEMBASSY YAOUNDE IMMEDIATE 1200-1207
RUEHGV/USMISSION GENEVA IMMEDIATE 8850-8857
INFO RUEHUB/USINT HAVANA PRIORITY 7127-7134
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UNCLAS SECTION 01 OF 08 STATE 093358

C O R R E C T E D C O P Y (ADDED CAPTION AND PARAGRAPH MARKING)

SENSITIVE, SIPDIS

E.O. 12958: N/A

TAGS: [PHUM](#) [PREL](#) [UN](#) [UNHRC](#)

SUBJECT: ACTION REQUEST: UN HUMAN RIGHTS COUNCIL 12TH
SESSION, SEPTEMBER 2009 - PRIORITIES

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¶1. (SBU) This is an action request, please see paragraph 3.
Embassy New Delhi: Please note additional action request in
paragraph 8. Embassies Brasilia, Dhaka, Santiago, Kyiv and
Pretoria: Please note additional action request in paragraph
¶9. Embassies Tokyo, The Hague, Rome, Paris, London, Brussels
and Oslo: Please note additional action request in paragraph
¶10. Embassy Moscow: Please note additional action request in
paragraph 11.

12. (SBU) SUMMARY: In re-engaging with the Human Rights Council (HRC), the U.S. will focus on: (i) defending the universality of human rights and the responsibility of governments to respect the rights of their citizens; (ii) defending the independence of UN human rights mechanisms, including human rights monitoring and assistance functions; (iii) reinforcing the Council's credibility, including working to remove the systemic bias in the HRC against Israel; (iv) advancing the principles of accountability, transparency and good governance in the work of the HRC.

The U.S. is committed to broadening and deepening our alliances at the HRC, to identifying common ground and cultivating a spirit of cooperation to enhance our effectiveness on the Council. We will seek ways to chip away at the historically strong tendency for regional groups to vote on resolutions based on bloc positions, often irrespective of a resolution's merits or individual countries, interests. In particular, we will work towards ensuring better alignment of a country's national and international priorities.

Our key goal for this HRC session is the passage by consensus of a balanced resolution on freedom of expression. We also seek the continuation of the special procedures mandates for Somalia, Cambodia and Burundi.

Issues that we expect may be problematic for the United

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States include: (i) potential resolutions arising from the presentation of reports about Israeli use of force in Gaza; (ii) a new, Russian-sponsored resolution on traditional values that may revive the debate on cultural relativism with respect to human rights. We may also face rhetorical backlash with respect to human rights issues in the U.S., including the treatment of detainees and accountability for torture.

END SUMMARY.

13. (SBU) ACTION REQUEST: This cable requests Posts to demarche at the highest appropriate level to solicit cooperation from and support for U.S. priorities and to seek host government insights on other resolutions that may be offered in the September session of the Human Rights Council. Posts are requested to respond by Friday, 11 September 2009 via front channel cable, using SIPDIS caption. Posts should not deliver this demarche if they determine it would be counterproductive to do so, and in such cases, are requested to inform Department (IO-RHS and DRL-MLGA) of their rationale. Posts should not hesitate to contact the Department for more information.

14. (SBU) BACKGROUND - U.S. HUMAN RIGHTS PRIORITIES FOR HRC 12th SESSION

THEMATIC RESOLUTIONS

-- FREEDOM OF EXPRESSION:

In an effort to show leadership in implementing the President's vision as articulated in the Cairo speech and to bridge the growing perception of a divide between the West and the Organization of the Islamic Conference (OIC) countries over freedom of expression, the U.S. has been reaching out to OIC countries to develop a balanced resolution on this issue that would demonstrate our shared commitment to freedom of expression while also recognizing the need to counter intolerance and discrimination. We seek passage by consensus of such a resolution on freedom of expression at the September session of the HRC. This would send a strong signal to the OIC member states about the willingness of this Administration to work with the OIC and other countries to seek common ground and advance mutual

interests while firmly protecting human rights values. We seek support from all Human Rights Council members and look to Posts to help build this support in capitals to achieve this goal.

Our protections for free speech are stronger than those that exist in international law. A number of countries impose bans on particular types of speech (like hate speech) which the U.S. would deem unconstitutional. The U.S. is particularly concerned about the potential negative impact that the OIC-sponsored resolution on defamation of religions has on freedom of expression. This resolution is typically run twice a year, once in Geneva (in March) and once in the UN General Assembly's Third Committee (in the fall). The resolution calls for bans on speech which defames religions, in particular Islam. While the U.S. recognizes the concerns of OIC countries regarding discrimination and intolerance, we would seek to address them without banning speech. Calls for bans on speech are unacceptable, not only due to the importance we place on free speech, but also because we believe that suppressing speech does not increase tolerance; rather it has the opposite effect. As President Obama stated in his Cairo speech: &Suppressing ideas never succeeds in making them go away.&8

Rather than seeking to address negative stereotyping of religion through banning offensive speech, the U.S. believes that the most effective role for government is to (i) proactively reach out to minority groups, in particular, to address discrimination and intolerance, (ii) develop appropriate legal regimes to adjudicate discriminatory acts and hate crimes, and (iii) allow diversity to flourish through robust freedom of religion and expression protections. President Obama demonstrated U.S. commitment to countering negative stereotypes in his Cairo speech when he said: &I consider it part of my responsibility as President of the United States to fight against negative stereotypes of Islam wherever they appear.&8. He went on to discuss the importance for individuals to be able to speak their mind and exercise their religions freely.

-- DISCRIMINATORY LAWS AGAINST WOMEN: Colombia, with Mexico, will be introducing a resolution at the 12th session of the HRC to establish a new mechanism that would combat discriminatory laws against women, with the creation of a

Special Rapporteur or Independent Expert. We strongly support this initiative. In doing so we can reinforce our commitment to combat both de jure and de facto discrimination against women.

The new mechanism would complement) but not duplicate) the work of the Special Rapporteur on Violence Against Women, whose mandate focuses on violence. Likewise, the mechanism would not duplicate the work of the CEDAW (the committee that consider progress made in implementation of the Convention on the Elimination of All Forms of Discrimination Against Women). That treaty is not universally ratified (the U.S. is not yet a party to it), and many States that have ratified have done so with widespread reservations.

Although some African countries endorsed the initiative at the June session of the HRC, they seem unwilling to be too vocal in their support or to get out in front of the G-77 (Egypt and Pakistan are strongly opposed). Several African and Asian countries have women Heads of State and Ministers of Foreign Affairs and may be helpful. Of these, the following are also HRC members: India, Philippines, Bangladesh and South Africa.

15. (SBU) COUNTRY-SPECIFIC RESOLUTIONS

Each year, certain country-specific resolutions highlight the provision of technical assistance to enable specific countries to develop and strengthen their domestic human rights, capacity. The following country-specific resolutions will be tabled in September:

-- SOMALIA: The Independent Expert (IE) is scheduled to present his report at the 12th Session. Sweden, in its capacity as EU president, will sponsor the resolution this year. The U.S. aims to co-sponsor a resolution to extend the mandate of the IE for another year. The human rights situation in Somalia remains grave and it is important that the HRC maintain the mandate of the IE.

-- CAMBODIA: Japan will sponsor a resolution on the provision of advisory services and technical assistance to Cambodia, seeking to extend by another year the mandate of the Special Rapporteur who was appointed at the 9th HRC Session. The USG

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supports the ongoing work of the Khmer Rouge Tribunal, as well as continuing efforts by the Cambodian Government to strengthen its democracy and human rights capacity. We support the work of the Special Rapporteur and will aim for early engagement with Japan to build support for this resolution.

-- BURUNDI: France, on behalf of the EU will sponsor a resolution on the provision of advisory services and technical assistance to Burundi, calling on the international community to increase its support, as well as reinforcing the mandate of the independent expert on the situation of human rights in Burundi. Last year, this mandate was extended until such time as Burundi stands up a functioning national human rights institution; as they have not yet done so, it remains to be seen whether the mandate will continue without the need for a resolution to renew it. The IE should report to the Council at its 12th session. The U.S. supports these efforts to strengthen human rights capacity in Burundi.

16. (SBU) BACKGROUND ON OTHER RESOLUTIONS

-- TRADITIONAL VALUES: This is a new resolution sponsored by Russia. The U.S. is concerned that the term &traditional values8 is not well-defined, and could be used to justify practices and/or laws, such as those that forbid women to work, permit female genital mutilation, or allow repressive policies related to sexual orientation, etc. We would only consider supporting this resolution if there is language to the effect that nothing in the resolution could be interpreted as undermining universal human rights and fundamental freedoms.

17. (SBU) KEY OBJECTIVES AND TALKING POINTS FOR ALL POSTS: Drawing on the background section above, Posts are requested to demarche at the highest appropriate level in both host country,s Ministry of Foreign Affairs and Office of the President/Prime Minister (or equivalent) to discuss U.S. priorities for the HRC:

-- Express U.S. commitment to: (i) defending the universality of human rights and the responsibility of governments to respect the rights of their citizens; (ii) defending the independence of UN human rights mechanisms, including human rights monitoring and assistance functions; (iii) reinforcing

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the Council,s credibility, including working to remove the systemic bias in the HRC against Israel; (iv)advancing the

principles of accountability, transparency and good governance in the work of the HRC.

-- Emphasize that we are consulting with host government in advance of the session not only because we hope to work closely with them on key human rights initiatives, but also to enable us to take their views into account as we shape our own positions.

Specific initiatives in September 2009 HRC session:

-- Solicit host country support for the adoption by consensus of a freedom of expression resolution at the Human Rights Council this September. This balanced resolution will seek to address the concerns underlying the push by some to call for restrictions on offensive speech, without undermining freedom of expression. Explain that the Obama Administration, consistent with the vision articulated in the Cairo speech, is seeking to bridge the perceived gap between OIC countries and the West in this area. Underscore U.S. commitment to recognizing the need to find ways to counter discrimination and negative stereotyping of religions, while upholding freedom of expression. We would appreciate host country,s support in achieving consensus on this resolution.

-- Stress the importance of strengthening human rights, capacity in Somalia, Burundi, and Cambodia and solicit host government support for extending the technical assistance mandates in these countries.

-- Emphasize U.S. support for the Colombian initiative for the creation of a mechanism that would combat discriminatory laws against women.

-- Express U.S. concerns about the Russian sponsored resolution on traditional values, and emphasize our requirement that language be included to the effect that nothing in the resolution shall be read as undermining universal human rights and fundamental freedoms.

-- Solicit information on resolutions that the host government is planning to introduce or support.

18. (SBU) ADDITIONAL OBJECTIVES FOR NEW DELHI: Seek India,s views

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on the draft freedom of expression resolution, and indicate strong U.S. interest in passing the resolution by consensus at the Human Rights Council,s September session. Seek India,s agreement to sign on early as a co-sponsor to assist in this effort. Post may share with host government a copy of the proposed resolution text, to be sent to designated contacts at Post via e-mail. Inquire if India plans to run their Tolerance and Pluralism resolution this year. Emphasize our interest in working constructively with India at the earliest opportunity.

19. (SBU) ADDITIONAL OBJECTIVES FOR BRASILIA, DHAKA, SANTIAGO, KYIV, PRETORIA AND FOR FOLLOW-UP WITH MISSIONS IN GENEVA: Seek host country,s views on the text of the draft freedom of expression resolution, and indicate strong U.S. interest in passing the resolution by consensus at the Human Rights Council,s September session. Post may share a copy of the proposed resolution text with host government, to be sent to designated contacts at Post via e-mail. Seek host country,s agreement to sign on early as a co-sponsor to assist in this effort.

110. (SBU) ADDITIONAL OBJECTIVE FOR TOKYO, THE HAGUE, ROME, PARIS, LONDON, BRUSSELS, OSLO: Tokyo: inquire with Japan about its current thinking on the resolution on the provision of advisory services and technical assistance to Cambodia. The Hague, Rome, Paris, London, Brussels and Oslo: ask host country governments about their current thinking on the technical assistance mandates for Somalia and Burundi (see paragraph 6).

¶11. (SBU) ADDITIONAL OBJECTIVE FOR MOSCOW: Inquire about the status of Russia,s resolution on traditional values and emphasize U.S. concerns and requirements (see paragraph 7 for details).

¶12. (SBU) IF ASKED: For EU/GRULAC countries: When discussing the freedom of expression resolution, you might be asked why the way forward is not Article 20 of the International Covenant on Civil and Political Rights (ICCPR) which bans speech that incites hatred and was used in the recent Durban Outcome Document. Our response: first, the US has a reservation to Article 20 due to our strong constitutional protections of speech. Article 20 language was one important reason we did not join Durban. Second, we note that the OIC has the votes at the HRC to start interpreting Article 20,s incitement language as including concepts such as defamation of

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religion, thereby broadening the areas in which countries could limit speech. We think this is not the way forward and is harmful to the protection of human rights.

NOTE ON SEPTEL GUIDANCE

¶13. (SBU) During the HRC session, the Department may also instruct select posts to deliver targeted septel guidance at the highest possible level to discuss host countries, voting records and encourage closer cooperation on key USG priority resolutions at the Human Rights Council. These septels will be in addition to the instructions in this message, which request all posts to engage immediately at the highest appropriate level on HRC priorities.

POINTS OF CONTACT AND REPORTING DEADLINE

¶14. (U) Posts are requested to report outcome of demarche via front channel cable by no later than Friday, 11 September, ¶2009. Posts should use SIPDIS caption in responses. For questions, please contact IO/RHS Colleen Neville and Amy Ostermeier and DRL/MLGA Lynn Sicade.
CLINTON